

**REMARKS**

Claims 14, 18, 19 and 20 have been amended.

The Examiner has rejected applicants' claims 14 and 18 under 35 USC 102(e) as anticipated by the Nakano, et al. reference (U. S. Published Patent Application Publication No. 2004/0046884). The Examiner has further rejected applicants' claims 19 and 20 under 35 U.S.C. 103(a) as being unpatentable over latter reference in view of the Ito reference (JP 2002-199266). Applicant has amended independent claims 14 and 18, and with respect to these claims, as amended, and their respective dependent claims, the Examiner's rejections are respectfully traversed.

Applicants' independent claim 14 has been amended to better define applicants' invention. More particularly, amended claim 14 recites an imaging apparatus comprising: an image pickup element having an imaging area in which a plurality of light receiving elements are two-dimensionally placed; a zoom operation unit for a user to operate expansion or reduction of an image; and a controller that controls to drive said image pickup element with a first shutter speed of an electronic shutter and mix a first number of pixel signals in the image pickup element, which is output from the plurality of light receiving elements in a first area of the imaging area, in a case that a first magnification is set by said zoom operation unit, and to drive said image pickup element with a second shutter speed of the electronic shutter and mix a second number of pixel signals in the image pickup element, which is output from the plurality of light receiving elements in a second area, which is smaller than the first area, of the imaging area, in a case that a second magnification, which is larger than the first magnification, is set by said zoom operation unit, wherein the second shutter speed is lower than the first shutter speed and the second number is smaller than the first number. Corresponding

independent method claim 18 has been similarly amended.

The constructions of applicants' amended independent claims 14 and 18 are not taught or suggested by the cited art of record. More particularly, the Examiner has argued with respect to the Nakanao, et al. reference, as follows:

“ . . . Nakano discloses . . . a controller . . . that controls to mix a first number of pixel signals in the image pickup element, which is output from the plurality of light receiving elements in a first area of the imaging area, in a case that a first magnification is set by said zoom operation unit (Figure 9; Area A; 4-pixel mixing; Paragraph 0074 and 0077), and to mix a second number of pixel signals in the image pickup element, which is output from the plurality of light receiving elements in a second area, which is smaller than the first area, of the imaging area, in a case that a second magnification, which is larger than the first magnification, is set by said zoom operation unit, wherein the second number is smaller than the first number (Figure 9; Area B; 3-pixel mixing; Paragraphs 0074 and 0077).

However, applicants submit that it is evident from the Nakano, et al. reference that nothing is taught or suggested in the aforementioned passages of the reference, or elsewhere in the reference, as to the shutter speeds used during the first and second magnifications. Thus, the reference fails to teach or suggest a “controller that controls to drive said image pickup element with a first shutter speed of an electronic shutter and mix a first number of pixel signals in the image pickup element, which is output from the plurality of light receiving elements in a first area of the imaging area, in a case that a first magnification is set by said zoom operation unit, and to drive said image pickup element with a second shutter speed of the electronic shutter and mix a second number of pixel signals in the image pickup element, which is output from the plurality of light receiving elements in a second area, which is smaller than the first area, of the imaging area, in a case that a second magnification, which is larger than the first magnification, is set by said zoom operation unit, wherein the second shutter

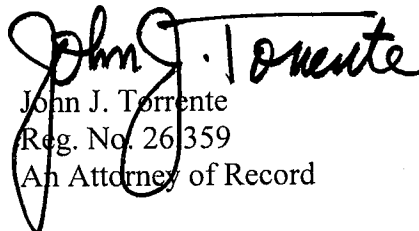
Applicants' independent claims 14 and 18, and their respective dependent claims, all of which recite, in one form, or another, the aforesaid features thus patentably distinguish over the Nagano, et al. reference. Moreover, the Ito, reference was cited by the Examiner for features unrelated to those discussed above as patentably distinguishing applicants' claims over the Nagano, et al. reference. Thus, for similar reasons as discussed above, applicants' amended claims patentably distinguish over the combination of the Nagano, et al. and Ito references.

In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

Dated: September 18, 2009

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.  
1133 Avenue of the Americas  
New York, NY 10036-6799  
T (212) 790-9200

  
John J. Torrente  
Reg. No. 26359  
An Attorney of Record